



Union County Government Procurement Policy and Procedure Manual

**Procurement Policy Adopted by the Union County Board of Commissioners June 5, 2023
(Last Amended December 8, 2025)**

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1 GENERAL INFORMATION

1.1 INTRODUCTION

The purpose of this Procurement Policy is to establish guidelines for the procurement of goods and services by County officials and employees (collectively, “Employees” or “Employee” when used in the singular) for any County office, service area, department, division, board, commission, or other organizational unit of Union County (collectively, the “County Departments”). Union County’s procurement operations are governed by North Carolina General Statutes (“N.C.G.S.”) Chapter 143 (State Departments, Institutions and Commissions), Chapter 153A (Counties), and Chapter 159 (Local Government Finance); ordinances approved by the Union County Board of Commissioners; and all other applicable laws, rules, regulations, codes, standards, and orders of governmental bodies, agencies, authorities, and courts having jurisdiction (“Applicable Law”). The procurement of goods and services by Employees shall be in strict accordance with Applicable Law and with the requirements of this Policy.

It is the intent of this Policy, where appropriate, to prescribe procurement requirements beyond Applicable Law and to confer on County staff the authority to make certain discretionary decisions, when authorized by Applicable Law. Where there is no prescribed policy for the procurement of goods or services, such as when in an amount for which these policies are not cost effective or administratively feasible, Employees are expected to seek competitive proposals, when practicable, and to utilize such practices as necessary to ensure that County business is not concentrated among a few vendors or service providers.

The basic goals of the County's purchasing program are:

- To comply with the legal requirements of public purchasing and procurement.
- To assure vendors that impartial and equal treatment is offered to all that wish to do business with the County.
- To promote open competition in support of the goals of securing value, receiving the maximum value for each dollar spent, and promoting fairness.
- To provide County departments with the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.
- To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers, and negotiations.
- To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict adherence to ethical standards.

If the requirements established in this Policy are followed, each department can efficiently manage, control, and plan its available resources to meet present and future departmental needs and help the County to meet these goals.¹

¹ Contact the Procurement Department for questions pertaining to this Policy.

The purchasing process is an ever-changing progression due to new technology and tools available to the purchasing profession. Therefore, this Policy shall be reviewed and revised periodically to keep current with continued developments as they pertain to the procurement process.

The Union County Board of Commissioners (the “BOCC”) has approved this, Policy. Therefore, the BOCC shall approve any and all policy changes prior to their becoming effective. Administrative procedures may be adopted by the County Manager or Deputy County Manager as may be necessary to implement and maintain this Policy.

1.2 OVERVIEW

1.2.1 Centralized Purchasing

It is the policy of Union County that the Procurement Department provides centralized procurement services.

The main purpose of a centralized purchasing function is to provide for a uniform and systematic method of purchasing the necessary goods and services required by County departments.

The Procurement Department provides technical assistance to all County departments and agencies in areas of specifications, review, development, cost reduction, and product and price information. The Procurement Department ensures that the County properly and economically adheres to all purchasing requirements and limitations imposed by state law. In addition, the Procurement Department assists with administering various agency-wide contract programs and the Procurement Card Program.

1.2.2 Program Administration

The Procurement Director shall administer an effective centralized purchasing program for carrying out the policy directives of the BOCC, including, but not limited to:

- Collaborating with departments to reduce the cost of purchasing supplies, materials, equipment, and applicable services;
- Contractual assistance with construction and repair projects;
- Providing timely, effective, and efficient service to County departments and divisions, and to vendors doing business with the County;
- Maintaining open communications with departmental representatives and the public in general; and
- Encouraging free and open competition in the bid process.

1.2.3 Competitive Bidding

When required by Applicable Law, the County shall obtain competitive bids on purchases. The County shall also endeavor to obtain competitive bids whenever it is deemed to be in the best interest of the County, regardless of the dollar amount.

1.2.4 Budget Ordinance

The County Manager, Procurement Director, and Procurement Department shall adhere to the policies and procedures approved by the Board of Commissioners in each annual budget ordinance. If approved by the BOCC, the annual self-certification for micro purchase thresholds as required under 2 C.F.R. § 200.320(a)(1)(iv)(A) for federal loan/grant awards will be incorporated into the annual budget ordinance. All reference to the annual self-certification for micro purchase thresholds as required under 2 C.F.R. § 200.320(a)(1)(iv)(A) for federal loan/grant awards listed in each annual budget ordinance shall be incorporated in this Procurement Policy.

1.3 CODE OF CONDUCT

1. All procurement activities must be conducted according to Applicable Law, including, but not limited to, N.C.G.S. §14-234.
2. All procurement activities must be conducted with integrity at all times and kept free from any personal obligations to vendors or contractors.
3. No employee or officer of Union County shall participate in the award or administration of a federal, state, or locally funded project or purchase if that person, that person's spouse, any member of that person's immediate family, or an organization which employs or is about to employ the person, the person's spouse, or a member of the person's immediate family has a financial or other interest in the company selected for award.
4. Any County employee having knowledge of or a reason to know of a potential personal interest or upon the discovery of a potential personal interest has an affirmative duty to disclose such personal interest to the department head. Any attempts by any person, firm or corporation to influence the decision of a county Employee with regard to County business must be reported to the County Manager.

2 SMALL PURCHASES

Purchase of Goods: Less than \$30,000

Construction and Repair: Less than \$30,000

2.1 GENERAL

The Procurement Department will provide assistance as needed.

Purchases of apparatus, supplies, materials, equipment, and construction or repair services valued at less than \$30,000 may be made without soliciting multiple quotes or informal bids. The requesting department shall, however, obtain a written quote from the

vendor they select. The Department Director shall maintain written documentation in their file to show that the price is fair and reasonable.

2.1.1 Small Purchase Procedure

The following procedures apply to purchases meeting the Small Purchase thresholds as defined by this Section 2:

1. A department may award to one vendor/company without soliciting pricing or bids.
2. The Department Director shall maintain written documentation in their file to show that the price is fair and reasonable.
3. To the extent practicable, purchases should be distributed among qualified suppliers.
4. Contract/Purchase Order must be in writing.

3 BIDDING PROCESS AND PURCHASING REQUIREMENTS

3.1 GENERAL

The Procurement Department will provide assistance in the preparation of specifications/bid documents that will ensure competitive bids whenever possible. Because competition is critical to public purchasing, it is essential that specifications be developed to ensure a sufficient number of competitive bids will be received. Specifications shall be as simple as possible while maintaining the degree of exactness required to meet the requirements of goods or services being requested. Specifications utilizing a brand name must include the term "or approved equal" to avoid being restrictive and eliminating fair competition from the bidding process. Well-written specifications will ensure that the Procurement Department is able to procure what is needed, when it is needed, at the lowest possible cost. The Procurement Director will determine which Procurement method will be most advantageous to the County and will ensure that the County is in compliance with Applicable Law.

3.1.1 Contracting Authority Limits

1. Purchases above the current contracting authority limits imposed by the BOCC will require BOCC approval. The process for Contract Review & Legistar is as follows:
 - a. The department's Contract Business Owner ("CBO") enters an item into Contract Review or Department Representative enters a Purchase Requisition.
 - b. The department attaches appropriate draft agenda language to the Contract Review Form or to the Purchase Requisition. Template BOCC agenda language can be found on the internal Procurement page. Note: Departments entering construction contracts that were awarded by the Board of Commissioners prior to the contract review and execution process do not need to attach draft agenda language to the Contract Review Form.

- c. The department attaches items outlined in the “Contract Review Checklist” located on CountyConnect under “Contracts.”
- d. The contract must have completed all internal approvals and be placed on hold 3 days prior to Agenda Deadline (refer to BOCC Meeting Agenda).
- e. After internal approvals are received, Procurement reviews draft agenda language and attachments and sends email to the requesting department to receive confirmation.
- f. Department responds within 24 hours or as otherwise designated in the email confirmation.
- g. Upon approval, Procurement uploads applicable BOCC Agenda items into Legistar.

3.2 INFORMAL BIDS

Purchase of Goods: Greater than or equal to \$30,000, but less than \$90,000

Construction and Repair: Greater than or equal to \$30,000, but less than \$500,000

The Procurement Department will obtain all informal bids as defined by N.C.G.S. §143-131 in writing. In accordance with N.C.G.S. §143-131, informal bids are required for purchases of apparatus, supplies, material, or equipment (“purchase contracts”) costing greater than or equal to \$30,000, but less than \$90,000; and construction and repair work costing greater than or equal to \$30,000, but less than \$500,000.²

Bids may be obtained by utilizing any one of the competitive bidding methods described in this policy if the Procurement Director deems it to be in the best interest of the County. Bids may be received by sealed bids, email, regular mail, or electronic means (if permitted by Applicable Law). Pursuant to N.C.G.S. §143-135, bids are not required for construction projects when the work is performed by Employees using force account qualified labor on the permanent payroll of the County, provided that the value of such work does not exceed the limits prescribed by statute.

All contracts shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

Bid tabulations shall not be subject to public inspection until the contract has been awarded (N.C.G.S. §143-131). If a combination of informal/formal process is used, information becomes public after bid opening.

3.2.1 Informal Bid Procedure for Purchases

² The use of a licensed architect or engineer is required for certain construction or repair projects in the informal range pursuant to N.C.G.S. §133-1.1(a). For more information regarding the procurement of architectural, engineering, or other professional services, see Section 3.4 herein.

The following procedures apply to purchases meeting the thresholds for informal bidding as defined by this Section 3.2:

1. The requesting department shall submit a completed Request to Solicit (RTS) form or requisition (if applicable) to the Procurement Department.
2. The Procurement Department will collaborate with the requesting department to determine which competitive bidding method will be in the best interest of the County.
3. If applicable, Procurement will assist the requesting department with securing competitive bids.
4. The Procurement Department will review the scope/specifications submitted by the requesting department.
5. Bids are coordinated with the requesting department to ensure that scope/specifications are met and that sufficient funds are available before advertisement.
6. The Procurement Director may advertise as deemed appropriate.
7. Bids are due on the date and time specified and will be tabulated and evaluated in a timely manner.

3.3 FORMAL BIDS

Purchase of Goods: \$90,000+

Construction and Repair: \$500,000+

A formal bid is required for:

1. Purchase of Goods: The expenditure is \$90,000 or more for the purchase of apparatus, supplies, materials, and/or equipment.
2. Construction and Repair: The estimated expenditure is \$500,000 or more for construction and repair projects.

The contract for any such purchase and/or service must be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

3.3.1 Formal Bid Procedure

The following procedures apply to purchases meeting the thresholds for formal bidding as defined by this Section 3.3:

1. The requesting department shall submit an electronic Request to Solicit (RTS) form to the Procurement Department.
2. The Procurement Director or a Procurement Representative will collaborate with the Department Project Representative to review the RTS and bid document

- package, prepared in-house or by a licensed architect/engineer in the case of construction and repair projects.
3. The Procurement Representative shall solicit bids utilizing one of the authorized competitive sealed bid methods which best fits the County's needs.
 4. The Procurement Representative will collaborate with the department to ensure that all federal, state, and all local requirements are met, including advertising, bonding requirements, pre-bid conference (if applicable), sealed bids, minimum number of bids (construction and repair) maintaining records, and public opening of bids.
 5. It is at the County's discretion to conduct a pre-bid conference for the purpose of explaining the County's requirements for the project and to answer any technical questions relating to the project.
 6. For the purchase of goods, the Procurement Representative may modify the scope/specification, as needed.
 7. Recognizing the Department as the subject matter expert, the Procurement Representative will acquire final approval of the solicitation from the Department Representative prior to advertisement.
 8. Specifications for certain construction and repair projects shall be prepared by a licensed architect/engineer firm as defined in GS 133-1.1.
 - a. Only documents approved by the County's Office of Legal Counsel may be used in the solicitation process.
 - b. The Procurement Representative will provide input regarding front end information to the Department Representative prior to advertising.
 - c. The Department Representative will share front end information with the architect/engineer engaged to prepare such bid specifications.
 - d. The Procurement Representative will acquire final approval of the bid package from the Department Representative prior to advertisement.
 9. The bid shall be advertised by electronic means or in a newspaper of general circulation in Union County with at least ten (10) full days elapsing between the day the ad appears and the bid opening date.
 10. Sealed bids are received and opened in public at the time, place and date specified in the advertisement. Bids received after the advertised time and date shall not be considered.
 11. A three (3) bid minimum is required for construction and repair contracts. If three bids are not received, a second advertisement shall be made, after which a contract may be awarded, even if fewer than three bids are received. No minimum number of bids is required for purchase of goods contracts.
 12. The Procurement Representative and the requesting department shall review all bids to ensure that the specifications have been met.
 13. The Procurement Director or Procurement Representative will collaborate with the department to recommend award of contracts to the lowest responsive,

- responsible bidder or bidders, taking into consideration quality, performance and the time specified in the bid document for the performance of the contract.
14. Use of the County's contracts is required for construction projects. Standard form contracts by an architect or engineer are not recommended but may be utilized only after review and approval by the Office of Legal Counsel.

Note: On building construction and repair projects \$300,000 and above, the formal bid policy and procedures listed above apply.

3.4 PROFESSIONAL SERVICES

The County will select firms for professional services through a qualifications-based selection process in accordance with N.C.G.S. §§143-64.31 and 143-64.32. Requirements for professional services will be “announced” and offerors must be selected based on demonstrated competence and qualifications for the type of professional services required without regard to fee.

The County shall use good faith efforts to notify minority firms of the opportunity to submit qualifications for consideration.

If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm.

The County Manager may exempt particular projects from the qualifications-based selection process for which the estimated professional fee is in an amount less than \$50,000.

3.4.1 Professional Services Procedure

The following procedures apply to solicitations for professional services as defined by this Section 3.4:

1. The requesting department shall submit an electronic Request to Solicit (RTS) form along with a scope of services to the Procurement Department.
2. The Procurement Representative will collaborate with the Department Representative to review the RTS and scope of services.
3. The Procurement Representative will prepare a Request for Qualifications package and solicit to firms having the competency to perform the required work.
4. The Procurement Representative shall use good faith efforts to contact minority firms to participate.
5. If a department prefers to exempt certain professional services with an estimated fee of less than \$50,000, the department or division/department head shall complete a Professional Services Exemption Memo providing the reasons for exemption and consideration for approval.

- a. The memo, along with the reason behind the request for exemption and consideration of approval, should be forwarded to the Deputy County Manager and/or Manager, copying the Procurement Director.
- b. If approved, a copy of the executed Professional Services Exemption Memo will be sent back to the Department to be scanned and attached in the contract review system by the Contract Business Owner (CBO).
- c. A template for the Professional Services Exemption Memo is located in Appendix B of this document.

3.5 PROCUREMENT OF OTHER SERVICES

The provisions listed in this section apply to contracts for services, except for contracts for architectural, engineering, and surveying services, and unless governed by other County policy or contract, or by State or Federal requirements. All contracts for lobbying services or management consulting services must be procured pursuant to the Request for Proposals requirements of Section 3.5.3 herein, regardless of amount.

3.5.1 Contracts for Services Less Than \$50,000

1. Department may award to one vendor/company without soliciting via RFP or quotations upon approval by the County Manager or Assistant County Manager.
2. The Department Director shall provide written documentation to the County Manager to show that the price is fair and reasonable.
3. To the extent practicable, purchases should be distributed among qualified companies.
4. Contracts must be in writing.

3.5.1.1 Procedure

The following procedures apply to the procurement of services costing less than \$50,000:

1. The department will obtain the County Manager's, Deputy County Manager's or Assistant County Manager's approval to purchase from one vendor/company within the electronic requisition workflow approval process or the electronic Contract Review routing process. The Department Director shall maintain written documentation.
2. If the department obtains 3 quotes or follows the RFP process to award, then County Manager approval is not required.

3.5.2 Contracts for Services Greater Than or Equal to \$50,000, but Less than \$150,000

For the procurement of services in this range, use of an RFP is encouraged, but not required; provided, however, that if a Department chooses not to use an RFP to purchase services in this range, Directors and/or Department Representatives must

solicit three quotations and document such quotations in writing, in order to ensure that services which most closely match the Department's needs are procured at the lowest available price. Because there are no statutory requirements applicable to the procurement of such services, an Assistant County Manager (ACM) or the County Manager may exempt a service from the RFP or quotations process for good cause and when in the best interests of Union County.

3.5.2.1 Procedure

The following procedures apply to the procurement of services costing at least \$50,000, but less than \$150,000:

1. Submit an RTS form to request an RFP or use the Procurement Standard Quote form.
2. If using the RFP method, follow the procedure listed in Item 3.5.3.1.

Note: If Federal funds are to be utilized, refer to Section 12.

3.5.3 Contracts for Services Greater Than or Equal to \$150,000

Unless governed by other County policy, contract, or by State or Federal requirements, such services shall be procured by the County upon issuance of a Request for Proposals (RFP) by the Procurement Department. The terms of the RFP shall be prepared by the Procurement Representative in conjunction with the Department Representative requesting the services.

The RFP shall include a list of factors to be utilized in evaluating the proposals. The County shall secure not fewer than two proposals, when practicable. The award of a service agreement shall be made to the offeror whose proposal is determined to be the most advantageous to the County, taking into consideration the evaluation factors set forth in the RFP. Because there are no statutory requirements applicable to the procurement of such services, an Assistant County Manager (ACM) or the County Manager may exempt a service from the RFP process for good cause and when in the best interests of Union County. The exemption of any such service exceeding \$150,000 shall be reported to the Board of Commissioners at its next regular meeting and shall include the justification for exemption. Notwithstanding the authority to exempt certain contracts from the requirements of this Section 3.5.3, no contracts for lobbying services or management consulting services may be exempted from the RFP process without the County Manager or an ACM requesting such exemption from the Board of Commissioners

Note: If Federal funds are to be utilized, refer to Section 12.

3.5.3.1 Procedure

The following procedures apply to the procurement of services costing \$150,000 or more:

1. A digital Request to Solicit (RTS) form and attachments are submitted electronically. (The RTS link is located on the CountyConnect home page and the internal Procurement page.)
2. The project is assigned by the Procurement Director to a Procurement Representative.
3. The Procurement Representative, with assistance from the Department Representative, prepares a Request for Proposal (RFP) package for advertisement.
4. The Evaluation Team and project timeline is confirmed.
5. The Department Representative approves the draft RFP prior to advertisement.
6. If applicable, a pre-proposal conference and/or site visits may be scheduled.
7. If applicable, addendum(s) addressing questions received will be answered.
8. RFPs are received electronically as described in the solicitation document on the scheduled due date and time. (No public bid openings.)
9. Procurement will secure not fewer than two proposals when practicable.
10. The Evaluation Team reviews proposals based on the evaluation criteria set forth in the RFP.
11. Using the evaluation criteria set forth in the RFP, the Evaluation Team scores each participating company.
12. Based on the summary scores and ranking, the Evaluation Team may decide to bring in companies for interviews and presentations/demos on the prescribed date & time.
13. The Evaluation Team submits a recommendation to award to the Procurement Director.
14. If a contract cannot be negotiated with the best qualified (top scored/ranked) firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm.
15. Department CBO enters the contract into Contract Review and Execution and follows the appropriate contract checklist found on the internal Procurement page.

Note: If the Department wishes to request an exemption from the RFP process in accordance with Section 3.5.3 herein (for good cause and in the best interests of the County), the Department shall submit a justification memo to the Deputy or Assistant County Manager (collectively, "ACM") or the County Manager.

Approval may be obtained within the electronic Contract Review routing process.³

3.6 EMERGENCY PURCHASES

The County Manager may exempt the procurement of any goods or service from the requirements of this Policy in cases of special emergency involving the health and safety of the people or their property pursuant to N.C.G.S. §143-129(e)(2). In order to exercise this emergency exemption, the emergency must be present, immediate, and existing. It cannot be a condition that is merely anticipated and may never actually occur. If the condition can be foreseen in time to take action to prevent harm to the public (or if the required procurement method can be completed before any harm would occur), the emergency exception cannot be invoked. Further, if harm to the public can be averted through temporary measures while the proper procurement method is being conducted, the emergency exception cannot be used. The failure to take proper precautions to prevent the need for an emergency procurement will not be accepted as a justification for exemption from the requirements of this Policy.

3.6.1 Procedure – Emergency Purchase Order

1. Requests for emergency purchase orders must be made to the Procurement Director by the Department Director. The Procurement Director will notify the County Manager and request verbal approval to proceed.
2. If approved by the County Manager, a Department Representative will submit an online Requisition describing the item(s) or service(s) to be supplied. The ordering department will contact the Purchasing Department with the requisition number.
3. The Procurement Department will provide either a hard copy of the purchase order or a purchase order number to be given to the vendor as authorization to supply the item(s) or service(s) required.
4. If a purchase order number is provided versus a hard copy of the purchase order, the following notation must be on the purchase order when issued: “Confirming Purchase Order, DO NOT DUPLICATE.”
5. Requisition is sent to County Manager for signature authorizing the emergency purchase.

3.7 EXCEPTIONS TO THE FORMAL BIDDING REQUIREMENTS

N.C.G.S. §143-129(e) lists exceptions to the standard formal bidding requirements of N.C.G.S. §143-129. The Procurement Director is responsible for gathering information to document the basis for the use of any exception to the competitive bidding requirements.

³ IT Goods and Services: Per N.C.G.S. 143-129.8, Information Technology purchases use the RFP method in accordance with this section.

The County Manager, with the Procurement Director, will determine whether exceptions appropriate for a purchase or group of purchases.

3.7.1 Purchase Contracts Exceptions

1. Purchases from other governmental agencies.
2. Competitive group procurement.
3. Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or natural gas. These purchases are subject to informal bidding requirements under N.C.G.S. 143-131.
4. Sole source. This type of procurement requires BOCC approval.
5. Information technology goods or services purchased through the State Office of Information Technology or under request for proposals.
6. Purchase of used apparatus, supplies, materials, or equipment. For purposes of this exception, remanufactured, refabricated or demo apparatus, supplies, materials, or equipment are not included in this exception.
7. Purchases from contracts established by the State or any agency of the State, if the contractor is willing to extend to Union County the same or more favorable prices, terms, and conditions as those established in the State contract.
8. Purchases of apparatus, supplies, or materials from contracts established by the United States of America or any federal agency, if the contractor is willing to extend to Union County the same or more favorable prices, terms, and conditions as those established in the federal contract. Equipment is not included in the exception.
9. "Piggybacking" or previously bid purchase contracts, which require BOCC approval at a regular meeting upon 10 days' public notice.
10. Purchase of goods and services from nonprofit work centers for the blind and severely disabled.
11. Cases of special emergency involving health and safety of the people, or their property.
12. Guaranteed energy savings contracts, which are governed by Article 3B of Chapter 143 of the General Statutes.

3.7.2 Construction and Repair Contract Exceptions

1. Change order work.
2. Construction manager at risk projects, for which qualifications-based selection is required.
3. Design-build contracts, for which qualifications-based selection is required.
4. Public-private partnership construction services, for which qualifications-based selection is required.
5. Force account work (note: limitations apply).
6. Projects using unemployment-relief labor paid for in whole or in part with state or federal funds.

7. Contracts with North Carolina Department of Transportation for street construction and repair.

3.8 SOLE SOURCE

In accordance with N.C.G.S. §143-129, sole source purchasing applies to purchases of apparatus, supplies, materials, or equipment when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. In the event a department believes that this sole source exception may apply to a purchase, the Procurement Director may waive the competitive pricing procedures outlined in this Policy pending applicable approval by the County Manager and Union County Board of County Commissioners in accordance with N.C.G.S. §143-129.

3.9 PRE-QUALIFICATION OF BIDDERS FOR CONSTRUCTION PROJECTS

3.9.1 General

Prequalification is a process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work. This policy is an objective prequalification policy applicable to all construction or repair work for which Union County intends to prequalify bidders.

The County is not required to prequalify bidders on any particular project. Prequalification of a bidder for a project shall only apply to that individual project. The use of prequalification pursuant to this policy is limited to construction or repair projects (regardless of cost) that are bid under the single-prime, separate-prime (multi-prime), or dual bidding methods. Prequalification is prohibited for contracts for architectural services, engineering services, surveying services, construction management at risk services, design-build services, design-build bridging services, and public private partnership construction services.

A construction manager at risk shall use the process outlined in this Policy for prequalification of contractors being utilized on construction management at risk projects. In such an instance, the construction manager at risk and the County shall jointly develop the assessment tool and criteria for each construction management at risk project, including the prequalification scoring values and minimum required score for prequalification on the project.

If the County determines it is appropriate to use prequalification for a project, a bid shall be deemed nonresponsive if a bidder submits a bid on a construction project subject to prequalification for which it has not been prequalified in accordance with this Policy. The previous statement does not apply to bidders initially denied prequalification that are subsequently prequalified pursuant to a protest under this Policy.

Notwithstanding the fact that a bidder is prequalified, the County reserves the right to reject a bidder's bid if it is determined that the bidder has not submitted the lowest responsible and responsive bid. The prequalification of a bidder shall not preclude the County from subsequently concluding that the bidder is not a responsible bidder pursuant to applicable law. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and time specified in the bids for the performance of the project.

The County shall advertise for prequalification for a particular project at least nine (9) weeks prior to the actual bid opening date for a project and have a prequalification submission deadline at least seven (7) weeks prior to the bid opening date for a project.

3.9.2 Requirements for Prequalification Criteria and Assessment Tool

The criteria and assessment tool for each project must be uniform, consistent, and transparent in its application to all bidders. All bidders who meet the prequalification criteria required to be prequalified for a project are allowed to bid on that project. The criteria must be rationally related to the construction or repair work at issue for a project. The criteria and assessment tool shall, at a minimum, address the following factors listed below. However, additional or more detailed factors may be used in an assessment tool for a project that are appropriate for that particular project.

1. Organizational Structure: The bidder shall provide a list of all owners, officers, partners, or individuals authorized to sign legal documents for the bidder on a project. The bidder must include its full legal name, typed or printed in a clear and legible manner.
2. Classification: A bidder shall indicate the type(s) of work the bidder normally performs, information regarding licensure, and any other required pertinent information.
3. Experience: A bidder shall be permitted to submit history or experience with projects of similar size, scope, or complexity compared to the project subject to prequalification. The bidder shall not be required to have been previously awarded a construction or repair contract by Union County.
4. Financial: A bidder shall be required to provide any solicited financial information appropriate to demonstrate its financial capability to perform the work for the project.
5. Capacity: A bidder shall demonstrate sufficient bonding capacity, insurance, and resources for the project.
6. Safety: A bidder shall demonstrate an acceptable safety history.
7. Legal Authorization: A bidder shall provide a copy of their North Carolina contractor's license, or provide a statement indicating that they are able to acquire one before submitting a bid on any project for which such license is

required. If a statement is necessary, the bidder shall identify the states in which they are licensed for the type of work contemplated for a project.

3.9.3 Review of Prequalification Submittals Process

1. Prequalification Committee: A County department's assigned project manager for a particular project shall establish a prequalification committee for that project to review and score qualifications submitted by bidders to determine prequalification eligibility utilizing the prequalification process set forth herein. If a construction manager at risk is utilized, the construction manager and project manager shall agree upon the members of the project's prequalification committee. The names of the prequalification committee members shall be submitted to Union County's Procurement Department prior to the commencement of the review and scoring process.
2. Review of Qualifications: The prequalification committee shall adopt and use an objective assessment tool and criteria for the specific project as outlined in this Policy. The prequalification criteria shall not require a bidder to have previously been awarded a construction or repair project by the County. The assessment tool and prequalification criteria used by the prequalification committee shall include prequalification scoring values and the minimum required score to be prequalified for the project. The prequalification committee shall determine whether each bidder is prequalified for a project in accordance with the assessment tool and criteria and scoring system established for the project.
3. Notice of Decision: Bidders that submit prequalification applications shall be notified by e-mail and first-class mail of the prequalification committee's decision regarding pre-qualification. Notice to a bidder determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the opening of bids for the project, with sufficient time for the bidder to protest the denial of prequalification.

3.9.4 Protest Procedure

1. Protest: A bidder may protest denial of prequalification by filing a written protest via hand delivery or e-mail. The written protest must be received by the Procurement Director, or designee (hereinafter the "Director"), within three (3) business days of notice of denial. The date of the notice of denial shall be the date the notice of denial was emailed to the bidder. The written protest shall be addressed to the Director, list the assigned County representative for the project, articulate the reasons why the bidder is contesting the decision, and attach any documents or information that support the bidder's position. The Director shall contact the bidder within five (5) business days of a receipt of a protest to schedule a date and time to review the protest, which review meeting shall be held within ten (10) business days of the date the protest was received.

2. Protest Decision: The Director shall evaluate the protest within five (5) business days of the scheduled date and time of the protest review meeting and make a finding that: (1) bidder did meet the prequalification requirements and is prequalified for bidding on the project, or (2) uphold the denial. If after review, the Director finds that the bidder meets the criteria for prequalification, then the bidder shall be notified via e-mail and first-class mail that they are prequalified for the specified project and are allowed to submit a bid for the project. If the Director upholds the denial, the bidder shall be notified in writing via e-mail and first-class mail.
3. General Rules for Protests: The e-mail address for the Director will be given to bidders submitting prequalification applications to assist with communication regarding the protest process. A bidder shall submit at least two e-mail addresses for use by the County and/or construction manager at-risk (if applicable) in communicating decisions regarding a protest. Bids received from bidders who have been disqualified shall not be opened and shall be returned to the bidder. A bidder's failure to comply with any requirements of the protest procedure in this Policy shall result in the bidder's protest being denied.

4 ADDITIONAL BID PROCESSES

4.1 ADVERTISING FOR BIDS

N.C.G.S. §143-129 requires that formal bids be advertised in a newspaper having general circulation, or by electronic means, or both.

The Procurement Director or an authorized designee shall advertise either electronically or in a local newspaper, whichever is determined to be most efficient and effective. Newspaper advertisements shall appear at least one time and at least ten full days before the time specified for the opening of bids in a newspaper having general circulation in the jurisdiction that is seeking bids. Electronic advertisements shall appear electronically at least ten days prior to the bid opening date.

4.1.1 Bid Advertisement Requirements

Each advertisement shall contain, at a minimum, the following information:

1. Time and place where plans and specifications can be obtained.
2. Time and place for opening of the bids/proposals.
3. A statement that the County reserves the right to reject any or all bids/proposals.
4. On construction projects, a notice that bidders must be properly licensed as required under Chapter 87 of the North Carolina General Statutes.
5. For construction projects, a statement that encourages outreach to minority/women Historically Under Utilized (HUB) businesses.

4.2 BID OPENING

It is the County's policy that *all* sealed bids in the formal range and/or all sealed bids in the informal range, if utilizing the sealed bid method, be opened in public in the designated Procurement Department location unless otherwise stated in the solicitation or authorized.

It is also the County's policy that the bid opening, evaluation, and award process be governed by the standards of openness and impartiality.

4.2.1 Bid Opening Procedure

1. All formal bids shall be sealed upon receipt until bids are opened publicly and read aloud.
2. All informal sealed bids shall remain sealed until the deadline for bids has expired.
3. Formal bids shall be opened in public and read aloud at the time and place specified in the advertisement for bids. Normally, all formal bids are opened in the Procurement Department or as designated in the bid document by the Procurement Representative in collaboration with the Department Representative and/or the assigned architectural or engineering firm.
4. Formal bids for construction or repair projects *must* be accompanied by a five percent (5%) bid deposit in the form of cash, cashier's check, certified check or an original Bid Bond executed by a Surety licensed in the State of North Carolina. Personal or company checks will not be accepted. Facsimile bid bonds are not acceptable. The County may, at its discretion, require bid deposits on informal construction projects whenever it deems necessary.
5. Bids submitted without the proper bid deposit, as required by statute, will not be considered. This also applies to construction or repair projects where the County is requiring a bid deposit on an informal bid.
6. Bids received after the time designated for the opening shall not be accepted. If a bid is received after the official bid opening date and time, the bid will not be opened. A notation on the outside of the bid package stating the date and time received will be noted and the bid will be placed in the bid file. Bid will be returned to vendor/contractor upon request.
7. Three (3) bids are required for construction or repair contracts in the formal range. If three bids are not received for formal construction and repair projects, a second advertisement must be made, after which a contract may be awarded even if fewer than three bids are received. No minimum number of bids is required for purchase contracts.
8. All formal bids are subject to public inspection once they are opened, and a bid tabulation will be made available upon receipt of a public records request by interested parties.
9. Informal bids are not subject to public inspection until after contract award. If the sealed bid and public bid opening process is used for an informal bid, then the bid tabulation will be made available upon receipt of a public

- records request.
10. It is a practice of the Procurement Department that only bid prices will be discussed at the bid opening. Bids will not be evaluated at this time.
 11. Bids are evaluated for compliance with specifications by the Procurement Director or the designated Procurement Representative and the responsible department/division head or designated representative.
 12. Bids will be awarded to the lowest responsible, responsive bidder or bidders.

4.3 BID DEPOSIT / BID BOND

Pursuant to N.C.G.S. §143-129(b), no formal proposal for construction or repair work may be considered or accepted unless at the time of its filing it is accompanied by a bid deposit equal to not less than five percent (5%) of the proposal. The bid deposit may be cash, cashier's check, or a certified check. In lieu of making the cash deposit, bidders may submit an original bid bond executed by a corporate surety licensed under the laws of North Carolina to execute such bonds. A faxed or copied Bid Bond will not be accepted.

4.4 FIXED PRICE TERM AGREEMENTS

4.4.1 Purpose / Applicability

This Policy applies only to fixed price service and bulk purchase agreements ("Fixed Price Term Agreements") which have been properly procured through the applicable procurement method, and which contain a set price or rate list for the term of the agreement which cannot be altered except by limited price escalation such as annual CPI increases.

This Policy does not apply to any professional services performed by architects, engineers, surveyors, or construction managers at risk, nor to any consulting agreements, capital project agreements, construction agreements, agreements involving the expenditure of federal funds, or to agreements originating in an enterprise fund department or expending enterprise funds.

Some examples of agreements to which this Policy applies include, but are not limited to, office supplies, maintenance services, temporary staffing services, printing services, County uniforms, and other routine services or bulk purchases which have not been specifically excluded from this Policy.

4.4.2 Policy

Fixed Price Term Agreements which have been properly procured under the County's Procurement Policy and which have received the requisite internal approvals through the contract review and execution process will be submitted to the Board of County Commissioners ("BOCC") for approval prior to signature of the initial agreement by the County Manager.

Following initial BOCC approval, the County Manager shall be authorized to execute amendments and authorize spending under each Fixed Price Term Agreement during the initial term of the agreement and any renewal terms as authorized by the Procurement solicitation.

Once a Fixed Price Term Agreement has received BOCC approval, the agreement shall not be subject to the County Manager's then-current contracting authority limits. All spending under Fixed Price Term Agreements shall remain restricted to the amounts appropriated by the BOCC in the annual budget in a given fiscal year.

The Procurement Department shall maintain a list of all currently effective Fixed Price Term Agreements and shall report to the BOCC on a quarterly basis the total amounts spent under such agreements.

4.4.3 Fixed Price Term Agreements Procedure

Refer to the contract information sheet located with the associated service/good type on the Countywide Contracts page in CountyConnect.

4.5 CHANGE ORDER POLICY

4.5.1 Purpose

The purpose of this procedure is to establish a process that defines the delegation of signature authority for the execution of construction contract change orders. It is recognized that amendments to the County's Procurement Policy will be needed to clarify the authority of the County Manager in this regard and that a more comprehensive procedure for the administration of construction change orders will be developed after the adoption of these policy changes.

4.5.2 Policy

This policy applies only to construction contract change orders that increase or decrease the original contract amount whereby the revised contract amount is within the contingency amount prescribed in the contract as awarded by the Board of County Commissioners (BOCC). All change orders for work exceeding the original contract contingency amount must be approved by the Board of County Commissioners. All change orders for work within contract contingency shall be authorized by the County Manager. The County Manager has authorization to assign signature authority for such change orders to Senior Management or Director level positions as needed.

4.5.2.1 Change Order Policy Procedure

1. Within Contingency:
 - a. Change Orders may be signed by the Director, the Assistant County Manager or Deputy County Manager, or the County Manager.

2. Exceeds Contingency Amount:
 - a. Such Change Orders must receive BOCC approval and authorization.
3. No Change in Amount/Time Extension:
 - a. Change Orders that only provide an extension of time for performance of the contract and no change in contract amount may be signed by a Director, the Assistant County Manager or Deputy County Manager, or the County Manager.
4. Deductive Change Orders:
 - a. Change Orders reducing the final value of the construction contract necessary for project closeout may be signed by the Director, Assistant County Manager or Deputy County Manager, or the County Manager.

4.6 CONTRACTING AUTHORITY

The County shall award all contracts in accordance with Applicable Law and County policy. The dividing of contracts to evade the provisions of the Procurement Policy or Applicable Law is prohibited.

The County Manager may:

1. Delegate contract signature authority for only those repetitive standard agreements for which the terms are fixed and not subject to change (e.g. Parks & Recreation camp site leases, subscriber agreements for electronic filing in the Register of Deeds' office, license agreements for use of the Agricultural Services Center, etc.);
2. Delegate, on a temporary basis, to an Assistant County Manager the ability to exercise such contract approval and appropriation transfer authority as granted to the County Manager pursuant to this Policy or the annually adopted County budget ordinance when the County Manager will be out of the office or otherwise unable to take such action; and
3. Authorize the Procurement Director to sign and approve contracts, which would include purchase orders, which are valued at \$30,000 or less, provided that (a) the contract has been pre-audited in accordance with N.C.G.S. § 159-28 (or any successor statute); and (b) the goods or services underlying the contract were procured in accordance with this Policy.

4.7 ADDITIONAL AUTHORIZATION

To facilitate the orderly and timely administration of the County's procurement program, authorization is hereby given by the Board of County Commissioners for the following:

1. The County Manager is authorized to reject formal and informal bids received for the purchase of apparatus, supplies, materials, or equipment, and to re-advertise to receive bids when necessary and in the best interest of the County.

2. The Procurement Director is authorized to advertise bids by publication in a newspaper having general circulation in Union County, or by solely electronic means, or both, in the Director's discretion.
3. Pursuant to N.C.G.S. §133-33, the Procurement Director may keep confidential the County's estimate of any public contract prior to bidding and the identity of contractors who have obtained proposals for bid purposes.
4. The County Manager or Deputy County Manager is authorized to adopt such processes and procedures as may be necessary and expedient for implementation of this Policy.
5. In addition to such other authority granted herein, the County Manager may exempt from this Policy the procurement of goods and services valued at less than \$30,000 and may otherwise vary the application of these guidelines upon good cause shown and when in the interests of Union County, provided that such exemption or variance does not violate Applicable Law.

4.8 PERFORMANCE AND PAYMENT BONDS

1. N.C.G.S. 143-129(c) requires a performance and payment bond when the sum of all contracts for a construction or repair project exceed \$300,000. Any contractor or construction manager at risk with a contract exceeding \$50,000 for such a project will be required to provide performance and payment bonds for the full amount of the contract. In place of bonds, the contractor may provide cash, certified checks or governmental securities in the full amount of the contract.
2. The County may require a performance and payment bond on construction projects costing less than \$300,000, certain purchase contracts, or contracts for services if it is in the best interest of the County to do so.

4.8.1 Performance and Payment Bonds Procedure

1. The performance and payment bonds must each be in the full amount of the contract and must be executed by a Surety licensed in North Carolina.
2. Bonds are retained in the Procurement Department. A power of attorney will accompany all bonds pertaining to this section.
3. After completion and acceptance of the construction project, bonds are not returned as they are non-negotiable.

4.9 EXPENDITURES REQUIRING BOARD OF COMMISSIONERS APPROVAL

County staff shall obtain BOCC approval on the following expenditures:

1. Purchases of goods and services above the Manager's delegated authority to execute contracts;
2. Construction contract change orders above the contingency amount included in the award for the contract;
3. Applicable revenue generating contracts above the Manager's delegated authority to execute contracts;

4. Sole Source purchases pursuant to N.C.G.S. §143-129(e)(6); and
5. "Piggybacking" or previously bid Purchase Contracts, upon at least 10 days' published notice pursuant to N.C.G.S §143-129(g).

4.10 M/WBE REQUIREMENTS

Union County will provide minority and women-owned businesses equal opportunity to participate in all aspects of County procurement relating to building construction and repair contracts in accordance with the County's Minority Business Plan.

N.C.G.S. §143-128.2 establishes goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods on County building construction, erection, alteration, and repair projects ("building projects") in the amount of \$300,000 or more and on County building projects involving State funding where the total project cost is \$100,000 or more.

For the purpose of this policy, "Minority Business" is defined by statute as a business that is at least 51 percent owned by one or more ethnic minorities or socially and economically disadvantaged individuals.

Union County has established a verifiable goal of 10% for participation by minority businesses in the aforementioned building project contracts.

4.10.1 M/WBE Procedure

The Procurement Director or Procurement Representative is responsible for reviewing and ensuring that M/WBE's are provided with an opportunity to participate in the bid process. Each member of the Procurement Department is required to make efforts to involve M/WBE's in this process.

1. For building construction and repair projects costing \$300,000 or more, a verifiable goal of 10% participation is listed. Good faith efforts to encourage participation by minority businesses shall be made by the Procurement Director, Department Representative or Architect/Engineer, if applicable.
2. For building construction projects of \$30,000 up to \$300,000, "good faith efforts" for participation are encouraged. The Procurement Department will solicit participation by minority business enterprises and will maintain a record of contractors solicited and efforts to recruit minority participation.
3. The County is required to submit a quarterly report to the State Department of Administration, Historically Underutilized Business (HUB) program on the number of minority, women, and handicapped vendors that the County has used for each individual building project. This required reporting applies to building construction projects costing \$30,000 or more regardless of the funding source. In addition, good faith efforts shall also be reported.
4. HUB vendors are registered with the North Carolina Division of Purchase and

Contract and can be found on the Purchase and Contract Home Page: <https://www.doa.state.nc.us/PandC>.

5. Follow the remaining procedures listed in the Union County “Guidelines for Recruitment and Selection of Minority Business for Participation in Union County Construction Contracts” located in Appendix C. The **Identification of HUB Certified/Minority Business Participation** form and required minority affidavit forms for building construction projects \$300,000 and above are included in Appendix C.

5 VENDOR RELATIONSHIPS

The County shall work to maintain and practice the highest possible standards of business ethics, professional courtesy, and competence in dealing with vendors and contractors.

6 CONFLICTS OF INTEREST, GIFTS AND FAVORS

This Policy requires that all business shall be transacted in compliance with Applicable Law and shall be conducted in conformance to the highest ethical standards. The proper operation of government requires that Employees be independent, impartial, responsible to the citizens, and that the public positions not be used for personal gain. The following conduct is required in furtherance of these principles.

Employees shall not undertake or make, pursuant to their public authority, any contracts for their own benefit or contracts in which they are in any manner concerned or interested or from which they receive profits. Employees are prohibited from obtaining a direct benefit from any contract in which they are involved on behalf of Union County. They are further prohibited from influencing or attempting to influence award of contracts, soliciting, or receiving gifts or rewards for recommending, and influencing or attempting to influence contract awards. These matters are generally governed by N.C.G.S. §14-234.

Pursuant to N.C.G.S. §133-32, no Employee of Union County who is charged with the duty of (i) preparing plans, specifications, or estimates for public contracts; (ii) awarding or administering public contracts; or (iii) inspecting or supervising construction, shall accept any gifts or favors from any vendor or service provider who has a contract with a governmental agency, or has performed under such a contract within the past year, or anticipates bidding on such a contract in the future.

This section is not intended to prevent a gift a public servant would be permitted to accept under N.C.G.S. §138A-32, or the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended to prevent governmental employees who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting.

This section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the donee to their Department Director if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.

7 GENERAL PROVISIONS

In the event of any conflict between this Policy and the North Carolina General Statutes, the General Statutes shall control. Whenever any provision of this Policy refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, the Policy shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section. To the extent any provisions of this Policy exceed the requirements of Applicable Law, such provisions shall confer no rights on vendors or service providers. Without limiting the generality of the foregoing, failure to comply with those portions of the Policy which exceed the requirements of Applicable Law shall not be deemed arbitrary and shall confer no right of appeal or resort to the courts. Pursuant to N.C.G.S. § 143-133, no contract shall be divided for the purpose of evading the provisions of this Policy. Failure to comply with the requirements of this Policy shall subject such Employee to disciplinary action in accordance with County personnel policies and may subject such Employee to personal liability when authorized by Applicable Law.

8 ENVIRONMENTAL IMPACT

Combined, local and state governments purchase more than one trillion dollars of goods and services each year. Many of these products may contribute to problems in the overall environment, including contamination of the air and water, and depletion of environmental resources. Union County has an opportunity to serve as a community model for environmental leadership. We work proactively to identify and source environmentally friendly options to meet our organizational needs without adversely impacting operational budgets or performance requirements. By incorporating environmental consideration into public procurement, Union County can reduce its burden on the local and global environment, remove unnecessary hazards, protect public health, reduce costs and liabilities, and help develop markets for environmentally responsible products.

9 REQUISITIONS AND PURCHASE ORDERS

9.1 REQUISITIONS

A requisition is a request for goods or services made by a department. If the requisition is approved, the Procurement Department will process the requisition to a purchase order (PO) and send to the requesting Department.

9.1.1 Requisition Procedure

1. The requesting department shall enter a requisition through the Financial Software System.
2. In the Note Section, enter the funding source, e.g. County, State, Federal, etc. If using a Cooperative/State contract, enter the contract name and number. If one quote was secured for the purchase of goods enter “the department file has been documented to show that they checked the market and determined the price to be reasonable.” If the purchase is \$50,000 or more, enter the requested BOCC meeting date.
3. Attach all associated backup documentation to the requisition by scanning and uploading the information. Associated backup documentation includes all information needed for review and approvals. At a minimum, written quotes should be attached. As applicable, attach internal approvals, contract information and Board agenda language for items \$50,000 and above.
4. Release requisition into the approval queue.
5. After Procurement reviews the requisition and all approvals have been received, the requisition is processed to a Purchase Order.

The Procurement Department will determine the proper bid procedures, if required.

9.2 PURCHASE ORDERS

A purchase order will not be issued without receiving an approved requisition from the ordering department. The Procurement Director, or designee, and the Finance Officer, or Deputy Finance Officer, must authorize all purchase orders.

All orders placed by the County shall be by Purchase Order or in accordance with the Procurement Card Policy.

Orders shall not be placed by any Employee prior to receipt of a Purchase Order unless utilizing a County-issued procurement card. Failure to comply with the policy and procedures contained herein may result in an Employee being held personally liable for any funds obligated for the purchase as provided for in N.C.G.S. §159-28.

9.2.1 Purchase Order Procedure

1. The purchase order is generated by the Procurement Department once the online requisition has received all approvals, including, but not limited to, the department, Procurement, and Finance. The County Manager’s approval is required on purchases \$30,000 and above.
2. Purchase Orders are distributed electronically or printed out.
3. The purchase order will contain:
 - Purchase Order Number
 - Vendor Number

- Vendor Name and Address
 - Description of item(s) or Services Ordered
 - Units Ordered
 - Unit Price, Total Price, or Extension
 - Funding Code
 - Date
 - Date Delivery Required
 - Freight Information (F.O.B.)
 - Terms
 - PO Total
 - Pre-Audit Statement
 - Signatures: Procurement Director and Finance Director
4. The Purchase Order is emailed to the requesting Department. It is the department's responsibility to place the order once they receive the Purchase Order and the County's Terms & Conditions.
 5. The Department is responsible to receive and verify purchased items.
 6. Invoices/Statements should be sent to the Finance Department and include a copy of the Purchase Order or the Purchase Order number.

10 DISPOSITION OF SURPLUS PROPERTY

10.1 SURPLUS – REAL PROPERTY

The County Manager shall review and evaluate all real property owned by the County periodically to determine if it is of use to the County before declaring it surplus.

10.2 SURPLUS – PERSONAL PROPERTY

10.2.1 Policy

When apparatus, supplies, materials, or equipment purchased for use by a County department are no longer suitable for use by that department, such property shall be provided to the Procurement Director for distribution to another department or for disposition as surplus. The Procurement Director shall apprise all County departments of such property in order to maximize its benefit to Union County. If, after a reasonable period, the Procurement Director determines that such property is not suitable for use by another County department, the Procurement Director may dispose of such surplus property as outlined in Section 10.2.2 herein.

10.2.2 Sale or Disposition of Surplus Personal Property

1. The Procurement Department will process all surplus personal property sales for the County after obtaining approval from the County Manager or from the Board of Commissioners, as required.
2. The Procurement Director may dispose of any surplus personal property, with or without notice and minimum waiting period, by any means which he or she judges reasonable to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale described below:
 - Auction: Electronic or Public
 - Negotiated Offer, Advertisement, and Upset Bid
 - Private Negotiation and Sale (only if under \$30,000)
 - Advertisement for Sealed Bids
 - Property Exchanges
 - Trade-ins (when specifications are prepared)
3. All sales shall be conducted in accordance with Article 12 of Chapter 160A of the North Carolina General Statutes.
4. Surplus personal property may be conveyed to other units of government. Other governmental units consist of a city, county, school administrative unit, sanitary district, fire district, the State, or any other public district, authority, department, agency, board, commission, or institution.
5. Surplus property may only be conveyed without monetary consideration as authorized under N.C.G.S. Chapter 160A, Article 12.
6. Sale of surplus property to County employees is not prohibited except in those instances where there is deemed to be a conflict of interest. The presence of conflict of interest will be ruled on by the Procurement Director; however, the County Manager shall have the final authority in these decisions.
7. The disposal of recyclable items and real property is not covered under this Section 10.2.2.
8. Federal Grant Funds: Any personal property that the County wishes to dispose of that was acquired in whole, or in part, with state or federal grant funds must satisfy any conditions imposed by such grants prior to the sale of the property.

10.2.2.1 Procedure

1. Property Valued Greater Than or Equal To \$5,000
 - a. Upon authorization by the Procurement Director, such property may be disposed of by private negotiation and sale, public auction, sealed bid, negotiated offer and upset bid, or exchange.
 - b. If the surplus personal property is valued at \$30,000 or more, the County may not dispose of the property by private negotiation and sale.

- c. All disposition of personal property valued at \$30,000 or more for any one item or group of items, must comply with statutory procedures in Article 12 of Chapter 160A of the North Carolina General Statutes.
2. Property Valued at Less Than \$5,000, Excluding Vehicles
 - a. Without authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Section 10.2.2. Such property may be declared surplus and disposed of by the Procurement Director for fair market value at public or private sale. The Procurement Director shall have authority to convey title to any property disposed of pursuant to this section.
3. Regarding the disposition of personal property, the Procurement Director is authorized to use existing private or public electronic auction services and to publish notice of all auctions solely by electronic means. The Procurement Director is authorized to discard any personal property that:
 - (i) is determined to have no value; (ii) remains unsold or unclaimed after the County has exhausted efforts to sell the property using any applicable procedure under this Policy; or (iii) poses a potential threat to the public health or safety.

11 PROCUREMENT CARD PROGRAM

11.1 PURPOSE

Procurement cards may be used by County Employees for any County office, department, division, board, commission, or other organizational unit of Union County (collectively, the “County Departments”). The Procurement Card Program has been established to provide a vehicle for departments to quickly procure goods and services and to significantly reduce paperwork and costs. By using a procurement card, the traditional requisition to purchase order and the number of written checks is reduced. Approved holders of a procurement card are required to comply with Applicable Law and with the requirements of this Procurement Policy.

11.2 POLICY

The Procurement Card Program enables authorized Union County Employees to purchase and pay for applicable materials, supplies, goods and services below \$5,000 within given policy and guidelines, on behalf of their division/department. This Section 11.2 applies to all County Employees participating in the Procurement Card Program. The \$5,000 limit includes any and all applicable sales tax.

Cardholders are required to timely satisfy all procedures identified herein in order to avoid past due transactions from appearing on statements and/or cards being rejected due to credit limits being exceeded.

11.3 PROCUREMENT CARD BENEFITS

The Procurement Card (P-Card) Program is an efficient, cost-effective method of paying for transactions. The procurement card has all the features of a regular credit card and can be used directly with any supplier where Visa is accepted. The benefits are:

- Increased productivity by allowing the cardholders to purchase applicable supplies, goods, and materials quickly;
- Offers a simple and easy-to-use payment method;
- Reduces number of purchase requisitions, petty cash transactions, and other time-consuming purchasing activities;
- Diminishes paperwork associated with expense reimbursements, invoices and checks;
- Enables supplier to receive payment in a timely manner;
- Improves accounts payable operations with fewer checks to process;
- Provides immediate settlement of procurement card payments, reducing their cost of funding;
- Streamlines administration through reduced paper-processing for invoices and receivables; and
- Improves accounts receivable performance and reduces bad debt and collection activities.

11.3.1 Procurement Card Procedure

11.3.1.1 Definitions

Cardholder

An active Union County employee who has been issued a P-Card and is therefore authorized to make purchases in accordance with this Policy.

Cycle

A period of one month that runs from the 28th through the 27th of the following month.

Department Head

Union County official who must approve employee's request for a P-Card, assign Department Card Manager, designate the default general ledger account number for purchases on the P-Card, and submit application to the Procurement Card Program Administrator.

Department Card Manager

An active Union County employee who will serve as the Procurement Card Administrator's main point of contact for their department. The Card Manager can also serve as a proxy and/or be a Cardholder.

Finance Card Administrator (FCA)

The central administrator team member located in the County's Finance Department who collaborates with the Procurement Department to coordinate and administer the Procurement Card Program for Union County

Pre-Audit

In order to comply with the Local Government Budget and Fiscal Control Act, the Finance Department's Accounts Payable section will encumber P-Card expenses based on each card's monthly credit limit. The encumbrance is not adjusted unless the card credit limit is increased or decreased.

Procurement Card Administrator (PCA)

The central administrator located in the Organization's Procurement Department who collaborates with the Finance Department to coordinate and administer the Procurement Card Program for Union County and acts as the Organization's intermediary in correspondence with the card issuer

Proxy

An active Union County employee who has been assigned the responsibility of reviewing and approving a Cardholder's transactions. The Proxy may be a Cardholder's Director or Departmental Coordinator. Every Cardholder must have a Proxy.

Single Transaction Limit (STL)

This is the maximum amount that can be charged in a single Transaction. The current threshold is \$5,000; however, the Cardholder's Department Head may request a higher limit by sending an email to the Procurement Card Administrator. The request must include an explanation for the increase. If the threshold amount is increased above \$5,000, departments are required to have a PO or contract in place prior to making a purchase. The Procurement Card Administrator will approve or disapprove the request.

Note: It is a policy violation to split purchases into multiple charges to circumvent the STL. See Section 11.4.7 herein.

Spend Control Profile

A Spend Control Profile details the credit limit and credit restrictions for credit card accounts assigned to that profile. All credit card accounts must be assigned to a spend control profile in the "Works" online program.

Transaction

A Transaction is a purchase made using a P-Card.

Vendor/Supplier

The merchant from which a Cardholder is making a purchase under the provisions of this Policy. Vendors are also the individuals or companies working under a contract with Union County.

11.3.2 Responsibilities

Procurement Card Administrator (PCA): Responsible for new card requests, card changes, card cancellations, spend credit profiles and P-Card training.

Finance Card Administrator (FCA): Acts as the County's intermediary responsible for GL Account Creations/Deletions, GL Allocations/Assistance, Reporting and assisting with providing P-card training.

Finance Card Accountant (FCA): Acts as the County's intermediary responsible for GL Account Creations/Deletions, GL Allocations/Assistance, Reporting and assisting with providing P-card training.

Cardholder: Cardholders are accountable for using his/her P-Card properly, retaining receipts, submitting receipts to their supervisor/Proxy for approval, safeguarding the card and ensuring that all Transactions are in compliance with this Policy. The Cardholder is ultimately responsible for all charges on his/her card.

Bank/ Merchant: Bank of America's services include issuing applicable Procurement Cards to Union County employees, providing electronic transaction authorizations, and billing Union County for all purchases made on the cards.

Department Head: It is the responsibility of each Department Head to ensure funds are available within the existing budget for all P-Card limits.

Department Liaison: Responsible for reviewing Transactions of individual Cardholders to make sure the Transactions are legitimate business expenses and are classified appropriately.

Department Card Manager: Responsible for reviewing Transactions of individual Cardholders to make sure the Transactions are legitimate business expenses and are classified appropriately.

Proxy: Responsible for reviewing Transactions made by his/her cardholders to ensure Policy compliance, as well as signing, coding and turning in all receipts from their employees.

11.3.3 P-Card Enrollment Application

To apply for a Procurement Card:

- The prospective Cardholder completes and submits an enrollment form to the PCA.
- The PCA verifies that the request has appropriate approvals and applies for a Procurement Card from the approved financial institution.
- Cardholder takes online training course and signs agreement.
- Cardholder receives and activates new Procurement Card.

11.3.4 P-Card Training and Agreements

Training is mandatory for new Cardholders before they receive the actual card. Training can be completed online. Once the Cardholder has completed training and receives the card, the Cardholder Agreement should be signed and dated by both the Cardholder and the PCA.

Cardholders must take the overview training course and re-sign the Cardholder Agreement every three years when the P-Card is renewed.

11.4 CARDHOLDER ELIGIBILITY AND USAGE

Eligibility

Any Union County employee approved by a Director is eligible for a P-Card.

The PCA and FCA shall review each P-Card request application to ensure the information required and authorizations are correct before requesting a card from the bank for the employee. The PCA will retain and centrally file all Procurement Card related forms and approvals.

It shall be the responsibility of the Department Head/Director to take custody of the P-Card when an employee is separated from employment, complete the required cancellation form, and submit it to the Procurement Department for cancellation.

Usage

The P-Card should be used exclusively for County approved business-related purchases. **It may not be used for personal purchases.** The Cardholder named on the P-Card is the ONLY person authorized to use the card or account number. The card may not be used by any other person. Cardholders may not receive cash advances of any form or receive cash back for any refunds or exchanges. Cardholders must exercise good judgement and act responsibly when using the P-Card. Any misuse or violation will result in further investigation and may lead to termination. A card bearing the Department name used by multiple users shall be the full responsibility of the Card Holder and the Department Director. The assigned Department Card Manager will monitor and track Department card usage.

Individual Procurement Card Credit Limits

At the time of issuance, individual P-Cards will be assigned a monthly limit that is encumbered to a centralized expenditure account in each department. Compliance with the \$5,000 P-Card per Transaction limit applies.

11.4.1 Cardholder Account Management Responsibilities

Monthly Reviews

Cardholders are required to reconcile all statements and receipts and obtain their Department Head's approval on a monthly basis.

Cardholder Responsibilities:

- Retain backup documentation (itemized receipts) for all Transactions regardless of amount;
- Review statements once they are received;
- Verify charges for accuracy against receipts;
- Provide sufficient Transaction detail for approvals;
- Forward reconciled statements to Approving Manager for approval;
- Contact the financial institution of any disputed charges that occur on their County issued card; and

- Inform the Procurement Department of any disputed Transactions. Any unresolved disputes shall be referred to the Procurement Department.

Department Card Manager's Responsibilities:

- Monitor P-Card use within general ledger and cost center to ensure adherence to policies;
- Review Cardholders' monthly procurement card statements;
- Identify any questionable or ambiguous charges and follow-up with Cardholder accordingly;
- Reconciler will provide completed statement to the **Department Head** for review. The **Department Head** will review the reconciled statement and approve the purchases by signing the statement under "Manager's Signature." The **Department Head's** review and signature **cannot be delegated**.

Note: If the Department Head is a Cardholder, then the County Manager, Deputy County Manager, or Assistant County Manager must review and sign the statement under "Manager's Signature." A Department Head cannot sign and approve their own statement.

- The signed monthly statement will be forwarded with signed receipts to the Finance Department by the 8th of each month or last business day of the week prior to the 8th if the 8th falls on a weekend;
- Approve all monthly statements in a timely manner;
- Forward approved statements and receipts to the Finance Department on or before the specified due date of each month.

Accountant Responsibilities:

The Finance Department will establish expenditure account posting, auditing, and billing procedures.

11.4.2 Disputed Items

Cardholders are responsible for resolving any statement discrepancies with the merchant and/or issuer to ensure corrections and/or credits appear on future statements. During the monthly reconciliation process, disputes should be identified and explained. Cardholders should complete an online dispute form if needed and follow up with the bank until the matter is resolved.

11.4.3 Changing Card Profile or Status

Cardholders are responsible for notifying the Procurement Card Administrator of any required changes to their personal details or account (e.g., name, general ledger, cost center, Approving Manager, address, cancellation, or credit limit) by submitting a change request to the PCA.

Cardholders are responsible for relinquishing their P-Card upon transfer, resignation, termination and/or cancellation of the card . When the card is cancelled due to transfer, resignation, termination or cancellation of the card responsibilities, the Department Head or Department Card Manager is responsible for shredding the procurement card.

If a card is inactive for a period of two or more years, it may result in cancellation of the P-Card. Before cancellation, Cardholders may be contacted by the PCA to gauge their continued need for a P-Card.

11.4.4 Lost, Stolen, and Fraud

Report card loss or theft immediately to approved financial institution. The Cardholder is responsible for notifying the bank and the PCA immediately upon discovery of a lost or stolen card. Cardholders should never lend cards or give card information to anyone. Cardholders are responsible for protecting their card and password at all times.

Renewals

Expiration dates are automatically set to five years after the issue date. The PCA will send out renewal cards automatically to the Cardholder for all active accounts. Before receiving the renewed cards, Cardholders will need to complete the overview training course and re-sign the Cardholder Agreement.

11.4.5 Impermissible P-Card Purchases⁴

- Non-business/personal purchases;
- Items available in the warehouse inventory supply;
- Fuel purchases except in authorized emergency situations;
- Capital items
- Personal Entertainment;
- Gift Cards (unless prior approval by the Finance Department);
- Money Orders;
- Ammunition/Weapons (Does not apply to the Sheriff's Office and Parks & Recreation Department. Compliance with this manual is required.);
- Prescription Drugs;
- Alcoholic Beverages;
- Cash Advances;
- Services not authorized by the normal Purchase Order process;
- Leases;
- Insurance;
- Purchases that in any way violate County policy; and
- Any other purchases that exceed the limits of this Policy.

11.4.6 Other Restrictions

- A Cardholder shall not split a purchase with another Cardholder, nor shall Cardholders split a single purchase into separate Transactions to circumvent the STL assigned to the P-Card.
- The Procurement Card shall not be used by or shared with any other employee or third person.

⁴ Updates to this section approved by County Manager on May 3, 2024.

11.4.7 Disciplinary Actions

- An employee guilty of fraudulent or wrongful use of the Procurement Card shall be subject to disciplinary action, up to and including termination, and may be subject to legal action.
- A Cardholder who makes an intentional unauthorized purchase or carelessly uses the Procurement Card will be liable to the County for the total dollar amount of the unauthorized purchase. Card privileges may be suspended for a minimum of 30 days pending investigation.
- A single transaction split into multiple transactions to intentionally avoid or circumvent the Cardholder's STL will result in a 30-day minimum suspension of card privileges.
- A single transaction split between two or more cards or multiple days to intentionally avoid or circumvent the STL and/or monthly credit limit (MCL) will result in a 30-day minimum suspension of card privileges.
- A Cardholder who allows his or her card or card information to be used by another employee will have their card suspended for 30 or more days.
- Cardholders or Proxies who fail to monthly reconcile in the financial software system, may result in the temporarily suspension of that card until reconciliation is complete and current.
- Cardholders who do not submit their monthly statements by the 8th of each month will have their card temporarily inactivated until the statement and receipts are received.
- Cardholders or Proxies who fail to submit or are late reconciling Transactions twice in a six-month period will be subject to a 30-day card suspension.
- A monthly report will be submitted to each Department Head containing a list of Cardholders who are late submitting P-Card statements to the Finance Card Administrator.
- Department Heads and/or Administration will receive notification of suspended cards.
- If a Cardholder's card is suspended two times in a one-year period, the employee's card will be permanently revoked.

11.4.8 Form and Attachments

The following P-Card forms are located on CountyConnect/Procurement page.

- New Cardholder Enrollment Form;
- Cardholder Agreement;

- Cardholder Change Form; and
- Cancel Card Request.

The Administrative P-Card Procedures shall be established by the Procurement Department and the Finance Department. These procedures may be amended as necessary without Board approval in order to administer the Procurement Card Program.

12 PROCUREMENT WITH FEDERAL FUNDS

12.1 POLICY

All contracts and purchases funded, in whole or in part, with any federal or state grant or loan funds must be procured by all County Departments in a manner that conforms will all Applicable Law, including, without limitation, all federal laws, policies, and standards, including those under the federal Uniform Guidance (2 C.F.R. Part 200). Union County's rules regarding procurement using federal funds are found in the attached Appendix A.

Note: In the event of any conflict between the Procurement Policy and federal purchasing requirements, the most restrictive purchasing requirement applies.

13 EFFECTIVE DATE

The Union County Procurement Policy as included in this Manual was adopted on June 5, 2023. All procedures contained in this Manual were approved by the County Manager effective February 14, 2024.

APPENDIX A – PROCUREMENT PROCEDURES WITH FEDERAL FUNDS

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APPENDIX A – PROCUREMENT PROCEDURES WITH FEDERAL FUNDS

1 POLICY

All contracts and purchases funded, in whole or in part, with any federal or state grant or loan funds must be procured by all County Departments in a manner that conforms with all Applicable Law, including, without limitation, all federal laws, policies, and standards, including those under the federal Uniform Guidance (2 C.F.R. Part 200). Further, such regulations shall supersede all local purchasing provisions to the extent of any conflict. Without limiting the generality of the foregoing, purchases made by the Union County Department of Transportation with federal transit funds shall comply with the current version of FTA (Federal Transit Administration) Circular 4220.1. All sub-recipient agencies receiving federal or state funds through the County of Union shall also comply with the federal or state granting agency procurement regulations, which supersede all local purchasing resolution provisions. The procurement of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in whole or in part with federal financial assistance must comply with all of the provisions of this Appendix A, which describe the requirements related to conflicts of interests and gifts. The Procurement Director may establish procedures consistent with this Policy to ensure compliance with the requirements of this paragraph.

This Appendix A applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in whole or in part with federal financial assistance (direct or reimbursed). This Section also applies to any sub-recipient of the funds.

The Employee responsible for managing the federal financial assistance award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all Employees, officers, and agents, including sub-recipients, of the requirements of this section and any additional prohibitions or requirements.

1.1 COMPLIANCE WITH FEDERAL LAW

All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. §200.317 through §200.327 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The County of Union will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the County of Union have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law. In addition, the County must comply and adhere to any other grant specific requirements.

1.2 CONTRACT AWARD

When bids are required by law, or otherwise solicited by the County, all contracts shall

be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract. Consideration shall be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

1.3 NO EVASION

No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this policy or state and federal law.

1.4 CONTRACT REQUIREMENTS

All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R Section § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

1.5 SELF-CERTIFICATION

Annual self-certification shall be included within the annual Budget Ordinance and approved by the Board of Commissioners.

1.6 CONTRACTOR'S CONFLICT OF INTEREST

Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.

1.7 APPROVAL AND MODIFICATION

The Administrative Procedures contained within this policy are administrative and may be changed as necessary at staff level to comply with the Federal Procurement Standards within this Policy. However, any policy changes must be approved by the Board of Commissioners prior to becoming effective.

Note: As a reminder, if there is a conflict between the Union County Procurement Policy and federal purchasing requirements, the most restrictive purchase policy applies.

2 PROCEDURE

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

General Procurement Standards and Procedures:

2.1 NECESSITY

Purchases *must be necessary* to perform the scope of work and must avoid acquisition of unnecessary or duplicative items (no stockpiling). The Procurement Department and/or the requesting department should check with the federal surplus property agency prior to buying *new* items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.

2.2 CLEAR SPECIFICATIONS

All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

2.3 NOTICE OF FEDERAL FUNDING

All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.

2.4 COMPLIANCE BY CONTRACTORS.

All solicitations should inform prospective contractors that they will need to comply with all applicable federal laws, regulations, executive orders, FEMA requirements, and terms and conditions of the funding award.

2.5 FIXED PRICE

Solicitations must state that the bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are *prohibited*. Time and materials contracts are prohibited *in most circumstances*. Time and materials (cost-plus) contracts will not be used unless no other form of contract is suitable and the contract includes a "not-to-exceed" amount. A time and materials contract shall not be awarded without the express written permission of the federal agency or state pass-through agency that awarded the funds.

2.6 USE OF BRAND NAMES

When possible, performance or functional specifications are preferred to allow for more competition, leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is

listed, it is used as reference only and "or equal" must be included in the description.

2.7 LEASE VERSUS PURCHASE

Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach. Note: This comparison is necessary for most FEMA financial assistance programs following an emergency or major disaster declaration.

2.8 DIVIDING CONTRACT FOR M/WBE PARTICIPATION

If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.

2.9 DOCUMENTATION OF PROCUREMENT PROCEDURES

Documentation must be maintained by the Procurement Department and/or the requesting department detailing the history of all procurements. The documentation should include procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.

2.10 COST ESTIMATE

For all procurements costing \$350,000¹ or more, the Procurement Department and/or requesting department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

2.11 CONTRACT REQUIREMENTS

The requesting department must prepare a written contract incorporating the provisions as required by the Uniform Guidance, 2 CFR, Part 200.

¹ This amount is known as the Simplified Acquisition Threshold (the "SAT") and is set by the federal government in accordance with 2 C.F.R. §§ 200.1 and 200.320. Notwithstanding anything in the Union County Procurement Policy to the contrary, the SAT will be deemed to have been updated in Union County's Procurement Policy any time the SAT is modified by the federal government.

2.12 DEBARMENT

No contract shall be awarded to a contractor included on the federally debarred bidders list. Prior to preparing the contract, the Procurement Department or the requesting department must verify that the contractor is not on the federally debarred bidders list.

2.13 CONTRACTOR OVERSIGHT

The requesting department receiving the federal funding must maintain oversight of the contract to ensure that the contractor is performing in accordance with the contract terms, conditions, and specifications.

2.14 OPEN COMPETITION

Solicitations shall be prepared in a way to be fair and provide open competition. The County shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding; specifying a brand name without allowing for "or equal" products, or other unnecessary requirement that have the effect of the restricting competition.

2.15 DOMESTIC SOURCING

The County should provide for domestic sourcing preferences to the greatest extent possible.

2.16 GEOGRAPHIC PREFERENCE

No contract shall be awarded on the basis of geographic preference.

2.17 PRE-QUALIFICATION

At the discretion of the County, contractors for construction and repair projects will be prequalified in accordance with the County's Pre-Qualification for Capital Improvement Projects (Section 3.9 of the Union County Procurement Policy). Protests for denial of prequalification will be in accordance with the pre-qualification policy.

2.18 PROTESTS AND DISPUTES

If required by the federal funding source, bid protests and disputes will comply with any requirements issued by the funding agency.

2.19 COMPETITIVE BIDS

Purchases made through a Cooperative Purchasing Program, or a contract procured by the State of North Carolina may be allowed ONLY if the contracts were procured in compliance with 2 C.F.R. 200.317-327 and written approval is granted by the federal grantor agency. Documentation must be provided by the supplier demonstrating

compliance. However, State Contract or Cooperative Purchasing programs may be used for purchases under the micro-purchase limit.

3 SPECIFIC PROCUREMENT PROCEDURES

The Procurement Department shall solicit bids/quotes in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

3.1 MICRO-PURCHASE

Purchase Contracts: Up to \$30,000

Service Contracts: Up to \$50,000

Shall be procured using the Uniform Guidance micro-purchase procedure (2 CFR §200.320(a)(1)). The thresholds are approved annually as a resolution by the Board of Commissioners to increase the micro-purchase limit. Does not apply to Architectural or Engineering ("A/E") Professional Services.

3.1.1 Procedure

1. No bidding is required.
2. Price must be considered fair and reasonable.
3. To the extent practicable, purchases must be distributed among qualified suppliers.
4. Contract must be in writing (this could be in the form of a purchase order).

3.2 SMALL PURCHASE

Purchase Contracts: At least \$30,000, but less than \$90,000

Service Contracts: At least \$50,000, but less than \$90,000

Shall be procured using the Uniform Guidance "small purchase" procedure (2 CFR §200.320(a)(2)). Does not apply to A/E Professional Services.

3.2.1 Procedure

1. Cost or price analysis is NOT required prior to soliciting bids.
2. Obtain **written** price quotes from an adequate number of suppliers or sources (which shall not be less than two (2) quotes). Check specific grant as some agencies may require more than two (2) quotes.
3. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. §200.321 by posting on the State's IPS site and the HUB Site.
4. Award contract as a fixed price. A not-to-exceed basis is permissible for service contracts only where obtaining a fixed price is not feasible.
5. Award to lowest responsive, responsible bidder.
6. Contract must be in writing (purchase contracts may be in the form of a purchase order; service contracts and construction or repair contracts require use of contract template).

3.3 SEALED BID

Service Contracts: \$90,000 up to \$350,000

Purchase Contracts: \$90,000+

Shall be procured using a combination of the most restrictive requirements of the Uniform Guidance sealed bid procedure (2 CFR §200.320(b)(1)) and state formal bidding procedures (G.S. §143-129).

3.3.1 Procedure

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be available to all bidders.
3. Public Advertisement: electronic advertising is authorized.
4. Legal notice must reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
5. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 CFR § 200.321 by posting on the State's IPS site and the HUB site.
6. Solicit from adequate number of known suppliers.
7. Bids must be submitted sealed.
8. Must have two (2) sealed bids submitted to open;
9. Public Bid Opening.
10. If fewer than two bids are received, re-advertisement is necessary. If upon re-advertisement only one bid is received, the bid can be accepted and opened.
11. Bids may only be rejected for "sound *documented* reasons."
12. Award contract as a firm fixed-price. A not-to-exceed basis is permissible for *service contracts only* where obtaining a fixed price is not feasible.
13. Award to lowest, responsive, responsible bidder.
14. Contract must be in writing (purchase contracts may be in the form of a purchase order; service contracts and construction repair require use of contract template).
15. **Cannot** use a cooperative purchasing program as an Exception to the Bidding.
16. Governing board approval prior to award is not required (per local policy, the BOCC has delegated award authority to County Manager).

3.4 COMPETITIVE PROPOSALS

Service Contracts: \$350,000+

Shall be procured using the Uniform Guidance competitive proposal procedure (2 CFR § 200.320(b)(2)) when the sealed bid procedure is not appropriate for the particular type of service being sought.

*Note: RFP's (competitive proposals) can **only** be used when conditions are not appropriate for the use of sealed bids such as service contracts. This can be used for all types of contracts \$250,000 and over.*

3.4.1 Procedure

1. Public advertisement is required; however, formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an "adequate number" of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321 by posting on the State's JPS site and the HUB site.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. All responses must be considered to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with the most advantageous proposal taking into account price and other factors identified in the RFP.
7. Governing board approval is required per local policy.
8. Award the contract on a firm fixed-price or cost-reimbursement basis.
9. Must have written contract with federal contract provisions included.
10. **Cannot** use a cooperative purchasing program as an exception to the bidding.
11. If only one response is received, re-advertisement is not required.

3.5 CONSTRUCTION AND REPAIR CONTRACTS – SMALL PURCHASE

At least \$30,000, but less than \$350,000

Shall be procured using the Uniform Guidance small purchase procedure (2 C.F.R. § 200.320(a)(2)). The \$30,000 threshold is approved annually as a Resolution by the Board to increase the micro-purchase limit.

3.5.1 Procedure

1. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321 by posting on the State's JPS site and the HUB site.
3. Obtain written price quotes from an adequate number of suppliers or sources (typically means two (2); however, verify with granting agency).
4. Award Contract on a fixed-price or not-to-exceed basis.
5. Award to lowest responsive, responsible bidder.
6. Award by the BOCC is not required; however, BOCC authorization of the contract may be required pursuant to the BOCC delegation of contracting authority.
7. Must have written contract with federal contract provisions included.

8. If fewer than two bids are received, re-advertisement is necessary. If upon re-advertisement only one bid is received, the bid can be accepted and opened.

3.6 CONSTRUCTION AND REPAIR CONTRACTS – SEALED BID

At least \$350,000, but less than \$500,000

Shall be procured using the Uniform Guidance sealed bid procedure (2 C.F.R. § 200.320(b)(1))

3.6.1 Procedure

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Public Advertisement: Advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid).
4. The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
5. Solicit from adequate number of known suppliers.
6. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321 by posting on the State's IPS site and the HUB site.
7. Bids must be submitted sealed.
8. Public Bid Opening
9. Must have two (2) sealed bids submitted prior to opening.
10. Original 5% Bid Bond (a bid that does not contain a bid bond cannot be counted toward the two (2) bid requirement).
11. Performance and Payment Bonds for 100 % of contract price Bids may only be rejected for "sound *documented* reasons".
12. Contract awarded on firm-fixed price basis.
13. Award to lowest responsive, responsible bidder
14. Must have written contract with federal contract provisions included.
15. Award of the contract by the BOCC is not required; however, contract execution authority limits as adopted by the BOCC shall still apply.
16. If fewer than two bids are received, re-advertisement is necessary. If upon re-advertisement and only one bid is received, the bid can be accepted and opened.

*** *Building Projects \$300,000 and above***

Construction or repair contracts involving a building \$300,000 and above must also include:

1. Pursuant to N.C.G.S. §143-128.2, formal HUB (historically underutilized business) participation is required, including local government outreach efforts and bidder good faith efforts.
2. Separate specifications shall be drawn up for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143 -128 (a).

3.7 CONSTRUCTION AND REPAIR – SEALED BIDS \$500,000+

\$500,000 and above

Shall be procured using a combination of the most restrictive requirements of the Uniform Guidance sealed bid procedure (2 C.F.R. § 200.320(b)(1)) and state formal bidding procedures (N.C.G.S. §143-129).

3.7.1 Procedures

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders
3. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C.G.S. 143-128(a).
4. The project shall be bid using a statutorily authorized bidding method (separate prime, single-prime, or dual bidding) as required under N . C . G.S. §143-129(a)(1).
5. Public Advertisement: (Electronic Advertising is authorized)
6. Legal notice must reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
7. Solicit from adequate number of known suppliers.
8. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321 by posting on the State's JPS site and HUB.
9. Good Faith MBE Requirements/Affidavits must be submitted Bids must be submitted sealed and in paper form.
10. Public Bid Opening
11. Must have three (3) sealed bids submitted before opening
12. Original 5% Bid Bond (a bid that does not contain a bid bond cannot be counted toward the three (3) bid requirement) Bid Bonds may not be faxed or emailed. Bid Bonds must be original and submitted with the Bid.
13. Performance and Payment Bonds for 100% of contract price
14. Bids can only be rejected for "sound *documented* reasons"
15. Contract awarded on firm-fixed Price basis
16. Award to lowest, responsive, responsible bidder
17. Must have written contract with federal contract provisions included
18. Award by the BOCC is required (cannot be delegated)
19. If fewer than three bids are received, re-advertisement is necessary. If upon re advertisement less than three bids are received, bid(s) can be accepted and opened.

3.8 PROFESSIONAL SERVICES (ARCHITECTURAL AND ENGINEERING SERVICES)

Less than \$50,000

Shall be procured using the RFQ process or Exemption Process

3.8.1 Procedure Under \$50,000

Professional Services under \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act may be exempt pursuant to N.C.G.S. §143-64.32 as long as the annual self-certification has been included in the annual Budget Ordinance. If the self-certification was not done, the micro-purchase threshold shall be \$10,000.

\$50,000 - \$350,000

Shall be procured using the state "Mini-Brooks Act" requirements (N.C.G.S. §143-64.31)

3.8.2 Procedure \$50,000 - \$350,000

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms.
2. Advertisement: Solicit only - Newspaper is not required.
3. Price (other than unit cost) shall not be solicited in the RFQ.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. §200.321 by posting on the State's IPS site and HUB.
5. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
6. State licensure requirements apply.
7. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation.
8. Preference may be given to in-state (but not local) firms.
9. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
11. Must be a fixed price or not to exceed contract type for services.
12. Governing board approval is not required.
13. Must have written contract with federal contract provisions included.
14. Do NOT have to re-advertise if only one response is received.

\$350,000 and above

Shall be procured using the Uniform Guidance competitive proposal procedure (2 C.F.R. § 200.320(b)(2))

3.8.3 Procedure \$350,000+

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms
Advertisement: Solicit only - Newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit qualifications statements from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321 by posting on the State's IPS site and HUB site.
3. Identify the evaluation criteria and relative importance of each criterion (the criteria weight) in the RFQ.
4. Proposals must be solicited from an adequate number of qualified sources (an individual federal grantor agency may issue guidance interpreting "adequate number").
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department
8. Rank respondents based on qualifications and select the most qualified firm.
9. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
10. Price cannot be a factor in the initial selection of the most qualified firm.
11. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
12. State licensure requirements apply.
13. Must be a fixed price or not to exceed contract type for services.
14. Governing board approval is required (per local policy)
15. Must have written contract with federal contract provisions included

Note: The RFQ process cannot be used for general consulting services or other services not defined by state law or federal law even if those services can be performed by an architectural or engineering firm.

4 EXCEPTIONS

Non-competitive contracts are allowed **only** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds.

4.1 SOLE SOURCE

A contract may be awarded without competitive bidding when the item is available from

only one source. The Procurement Department and/or requesting department shall document the justification for and lack of available competition for the item. Written prior approval is required by the granting agency for all sole source procurements in excess of \$350,000. All sole source contracts must be approved by the BOCC when federal funding is involved unless the contract is under \$30,000.

4.2 PUBLIC EXIGENCY

A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from competitive bidding. **A cost analysis is still required.**

4.3 INADEQUATE COMPETITION

A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.

4.4 AWARDING AGENCY APPROVAL

A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law. When hiring consultants, prior approval must be obtained from the awarding agency whose rate exceeds the consultant rate maximum limit as specified by the awarding agency.

5 CONFLICTS OF INTEREST

In addition to the prohibition against self-benefiting from a public contract under N.C.G.S. § 14-234, no officer, employee, or agent of Union County may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

1. The employee, officer, or agent involved in the selection, award, or administration of a contract;
2. Any member of his or her immediate family;
3. His or her partner; or
4. An organization which employs or is about to employ any of these parties.

Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this Appendix shall report the conflict to his or her Department or Division Director. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.

6 GIFTS

In addition to the prohibition against accepting gifts and favors from vendors and contractors under N.C.G.S. § 133-32, officers, employees, and agents of Union County are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value which fall into one of the following categories may be accepted:

1. Promotional items.
2. Honorariums for participation in meetings; or Meals furnished at banquets.

Any officer, employee or agent who knowingly accepts an item of nominal value allowed under this Policy shall report the item to his or her immediate supervisor.

7 VIOLATION

Employees violating Appendix A will be subject to discipline up to and including dismissal. If a contractor violates the conflict of interest or gift rules set out herein, the County may terminate any contract(s) between the County and said contractor and said contractor may not be eligible for future contract awards.

APPENDIX B – PROFESSIONAL SERVICES EXEMPTION MEMO

PROFESSIONAL SERVICES EXEMPTION MEMO

ARCHITECTURAL, ENGINEERING, and SURVEYING

WHEREAS, G.S. 143 -64.31 requires the initial solicitation and evaluation affirms to perform architectural, engineering, surveying, construction management-at-risk services, design-build services, and public-private partnership construction services (collectively "design services") to be based on qualifications and without regard to fee; and

WHEREAS, the County of Union proposes to enter into one or more contracts for such design services for work on **[Name of Project]** and;

WHEREAS, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection requirements of G.S. 143-64.32 if the estimated fee is less than \$50,000; and

WHEREAS, the estimated fee for design services for the above-described project is less than \$50,000.

NOW, THEREFORE, THE COUNTY MANAGER FINDS:

The above described project is hereby made exempt from the provisions of N.C.G.S. 143-64.31.

Dated this _____ day of _____, 20____

Brian Matthews
County Manager

Attest

PLEASE FORWARD ORIGINAL TO PROCUREMENT

APPENDIX C – UNION COUNTY MINORITY AND SMALL BUSINESS GUIDELINES AND OUTREACH PLAN



Union County Government
Minority and Small Business Guidelines
and Outreach Plan

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GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN UNION COUNTY CONSTRUCTION CONTRACTS

In accordance with G.S. §143-128.2, these Guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods on County building construction, erection, alteration, and repair projects (“building projects”) in the amount of \$300,000 or more and on County building projects involving State funding where the total project cost \$100,000 or more.

Union County has established a verifiable goal of 10% for participation by minority businesses in the aforementioned building project contracts. The overall goal will be reviewed annually or as soon as relevant data is available.

SECTION A: INTENT

It is the intent of these Guidelines that Union County, as awarding authority for building projects, and the contractors and subcontractors performing the building project contracts awarded, shall cooperate and in good faith do all things legal, proper and reasonable to achieve the goal of ten percent (10%) for participation by minority businesses in each construction project as mandated by G.S. §143-128.2. Nothing in these Guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

A copy of these Guidelines will be issued with each bid package for applicable Union County building projects. These Guidelines shall apply to all contractors on such projects, regardless of ownership.

SECTION B: DEFINITIONS

1. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original Indian peoples of North America; or
 - e. Female

2. Minority Business - means either of the following:
 - a. A business that meets both of the following conditions:
 1. At least fifty-one percent (51%) of the business is owned by one or more minority persons or socially and economically disadvantaged individuals, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 2. The management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
 - b. An Employee Stock Ownership Plan company in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals.

The business must also be certified as a Historically Underutilized Business by the North Carolina Department of Administration Office for Historically Underutilized Business.

3. Socially and economically disadvantaged individual - means the same as defined in 15 U.S.C. 637. "Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities." "Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged."
4. Public Entity - means the State and all public subdivisions and local governmental units.
5. Owner - Union County.
6. Designer - Any person, firm, partnership, or corporation, which has contracted with the Owner to perform architectural or engineering work.
7. Bidder - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
8. Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.
9. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the Owner to perform building construction, erection, alteration, or repair work.
10. Subcontractor - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.

11. HUB Office – N.C. Department of Administration’s Office for Historically Underutilized Businesses.

SECTION C: RESPONSIBILITIES

1. Owner:

The Owner shall do the following:

- a. Implement the attached “Union County’s Minority and Small Business Participation Outreach Plan” to identify minority businesses that can perform public building projects and to implement outreach efforts to encourage minority business participation in these projects to include education, recruitment, and interaction between minority businesses and nonminority businesses.
- b. Attend the scheduled prebid conference and explain the minority goals and objectives.
- c. At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from the Owner for public construction or repair work and minority businesses that otherwise indicated to the Office of Historically Underutilized Businesses an interest in the type of work being bid or the potential contracting opportunities listed in the proposal. The notification shall include the following:
 - (1) A description of the work for which the bid is being solicited.
 - (2) The date, time, and location where bids are to be submitted.
 - (3) The name of the individual within the public entity who will be available to answer questions about the project.
 - (4) Where bid documents may be reviewed.
 - (5) Any special requirements that may exist.
- d. Utilize other media, as appropriate, which may be likely to inform potential minority businesses of the bid being sought.
- e. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
- f. Review, jointly with the Designer, all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) prior to recommendation of award.
- g. Evaluate documentation to determine that a good faith effort has been achieved for minority business utilization prior to recommendation of award.

- h. Forward documentation showing evidence of implementation of Owner's requirements to the State Construction Office and the HUB Office upon request.

In addition, after a contract has been awarded the Owner shall:

- a. Review prime Contractors' pay applications for compliance with minority business utilization commitments prior to payment.
- b. Submit the report to the HUB Office as required by G.S. 143-128.3(a).

2. Designer:

Under the single-prime bidding, separate prime bidding, dual bidding, construction manager at risk, or alternative contracting method, the Designer must do all of the following:

- a. Attend the scheduled pre-bid conference to explain minority business requirements to the prospective bidders.
- b. Assist the Owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities and provide documentation of this assistance for the Owner's records.
- c. Maintain documentation of any contacts, correspondence, or conversations with minority business firms made in an attempt to meet the goals and forward the documentation to the Owner.
- d. Review, jointly with the Owner, all requirements of G.S. §143-128.2(c) and G.S. § 143-128-2(f) (i.e. bidders' proposals for identification of the minority businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing Good Faith Efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) prior to recommendation of an award.
- e. During construction phase of the project, review "MBE Documentation for Contract Payment" - (Appendix E) for compliance with minority business utilization commitments. Submit Appendix E form with monthly pay applications to the Owner.
- f. Make documentation showing evidence of implementation of Designer's responsibilities available for review by the Owner and State officials upon request.

3. Prime Contractor(s), Construction Manager at Risk, and Its First-Tier Subcontractors:

The following requirements apply to all contractors utilizing single-prime bidding, separate-prime bidding, construction manager at risk and alternative contracting methods,

as well as to all contractors performing as contractors and first-tier subcontractors under construction manager at risk. For purposes of this subsection, the term “contractor(s)” shall also include first-tier subcontractors under a construction manager at risk. The contractors shall:

- a. Attend the scheduled prebid conference and any prebid meetings scheduled by the Owner.
- b. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
- c. At least ten (10) days prior to the scheduled day of bid opening or due date for proposals, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification must include all of the following:
 - (1) A description of the work for which the sub bid is being solicited.
 - (2) The date, time, and location where sub bids are to be submitted.
 - (3) The name of the individual within the company who will be available to answer questions about the project.
 - (4) Where bid documents may be reviewed.
 - (5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.

If there are more than three (3) minority businesses within a 75 mile radius of the project who offer similar contracting or subcontracting services in the specific trade, the contractor(s) shall notify three (3), but may contact more, if the contractor(s) so desires.

- d. During the bidding process, comply with the contractor(s) requirements listed in these Guidelines and any contractor requirements listed in Union County’s Minority and Small Business Participation Outreach Plan.
- e. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid (“Identification of HUB Certified/Minority Business Participation” form) and submit affidavit listing Good Faith Efforts (Affidavit A) as required by G.S. §143-128.2(c) and G.S. §143-128.2(f). If the contractor will be performing all of the work with its own workforce, the contractor may submit Affidavit B, Intent to Perform Contract with Own Workforce,” in lieu of Affidavit A. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
- f. Make documentation showing evidence of implementation of Prime Contractor, Construction Manager-at-Risk and First-Tier Subcontractor responsibilities available for review by the Owner and State officials upon request.

- g. Provide one of the following to Owner upon being named the apparent low bidder:
 - (1) an affidavit (Affidavit C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal; or
 - (2) if the percentage is not equal to the applicable goal, then an affidavit (Affidavit D) and documentation of all Good Faith Efforts taken to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitation, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
- h. Within thirty (30) days after award of the contract, the apparent lowest responsible, responsive bidder shall file with Owner a list of all identified subcontractors that the contractor will use on the project.
- i. Identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values. The schedule of values shall be provided as required in the General Conditions of the Contract to facilitate payments to the subcontractors.
- j. Submit with each monthly pay request and final payment request the “MBE Documentation for Contract Payment” - (Appendix E), for Designer’s review.
- k. If at any time during the construction of a project, if it becomes necessary to replace a minority business subcontractor, immediately advise the Owner in writing of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
- l. Make a good faith effort to solicit subbids from minority businesses during the construction of a project if additional subcontracting opportunities become available.

In addition, a construction manager at risk shall submit its plan for compliance with N.C. Gen. Stat. § 143-128.2 for approval by the County prior to soliciting bids for the project’s first-tier subcontractors.

4. Minority Business Responsibilities

Union County does not certify minority businesses. Any business which desires to participate as a minority business under these Guidelines will be required to register and become certified as a historically underutilized business (“HUB”) by the North Carolina Department of Administration Office for Historically Underutilized Businesses (“HUB Office”). This system will replace all other HUB certification or registration programs currently (or formerly) used by public entities in North Carolina. Pursuant to G.S. 143-128.4(e), as of July 1, 2009, State agencies and local governments may count **only** those businesses that are certified as HUBs through the new statewide system to determine whether their participation goals have been met. In other words, a business that was registered as a HUB through a local government’s registration system but has not been certified as a HUB through the new statewide system will not count towards that local government’s participation goals.

Businesses seeking HUB certification need to go to:

<https://www.doa.nc.gov/divisions/historically-underutilized-businesses-hub/certifications>.

Minority HUB contractors shall make a good faith effort to participate in construction projects as demonstrated by:

- a. Attending the scheduled prebid conference.
- b. Responding promptly whether or not they wish to submit a bid when contacted by the Owner or bidders.
- c. Attending training and contractor outreach sessions given by the Owner, contractors and state agencies, when feasible.
- d. Participating in Mentor/Protégé programs, training, or other business development programs offered by the Owner, contractors or state agencies.
- e. Negotiating in good faith with the Owner or contractors.

SECTION D: DISPUTE PROCEDURES

It is the policy of this State that disputes that involve a person’s rights, duties or privileges should be settled through informal procedures. To that end, minority business disputes arising under these Guidelines should be resolved as governed under the dispute resolution process adopted by the State Building Commission pursuant to G.S. 143-135.26(11).

MINORITY BUSINESS CONSTRUCTION CONTRACT PROVISIONS

APPLICATION:

The **Guidelines for Recruitment and Selection of Minority Businesses for Participation in Union County Construction Contracts** are hereby made a part of these contract documents.

MINORITY BUSINESS SUBCONTRACT GOALS:

The goal for participation by minority firms as subcontractors on this project has been set at 10%.

The bidder must identify on its bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit (Affidavit A) listing good faith efforts or affidavit (Affidavit B) of self-performance of work, if the bidder will perform work under contract by its own workforce, as required by G.S. §143-128.2(c) and G.S. 143-128.2(f).

In addition, the lowest responsible, responsive bidder must do one of the following:

(1) Provide Affidavit C that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal.

OR

(2) If the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, is less than the applicable goal, provide Affidavit D as well as documentation of Good Faith Efforts.

OR

(3) Provide Affidavit B, which includes sufficient information for the Owner to determine that the bidder does not customarily subcontract work on this type project.

The above information must be provided as required. Failure to submit these documents is grounds for rejection of the bid.

MINIMUM COMPLIANCE REQUIREMENTS:

All written statements, affidavits or intentions made by the bidder shall become a part of the agreement between the Contractor and Union County for the performance of the contract. Failure to comply with any of these statements, affidavits or intentions, or with the minority business Guidelines shall constitute a breach of the contract. A finding by Union County that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of Union County whether to terminate the contract for breach.

In determining whether a contractor has made Good Faith Efforts, Union County will evaluate all efforts made by the Contractor and will determine compliance with regard to quantity, intensity, and results of these efforts. Bidders are required to earn at least 50 points from the good faith efforts listed below for their bid to be considered responsive. Failure to file a required affidavit or documentation demonstrating that the bidder made the required good faith efforts is grounds for rejection of the bid. Good Faith Efforts include:

- (1) Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the Contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed. Value = 10 points.
- (2) Making the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due. Value = 10 points.
- (3) Breaking down or combining elements of work into economically feasible units to facilitate minority participation. Value = 15 points.
- (4) Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses. Value = 10 points.
- (5) Attending any prebid meetings scheduled by the public Owner. Value = 10 points.
- (6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. Value = 20 points.
- (7) Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing. Value = 15 points.

- (8) Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit. Value = 25 points.
- (9) Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public building construction or repair project when possible. Value = 20 points.
- (10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands. Value = 20 points.

UNION COUNTY'S MINORITY AND SMALL BUSINESS PARTICIPATION OUTREACH PLAN

In addition to the good faith efforts set forth in the Guidelines for Recruitment and Selection of Minority Businesses for Participation in Union County Construction Contracts, Union County will also make the following good faith efforts in order to make it feasible for minority businesses to submit successful bids or proposals for contracts for building projects. Union County shall also make the following good faith efforts in the selection process for architectural, engineering, and construction manager at risk services.

1. Work with minority-focused and small business groups that support minority business and small business inclusion in the solicitation of bids. These groups include the Small Business Center Network (SBCN) (Anson & Union Counties), The Small Business and Technology Development Center (SBTDC), and The Union County Chamber of Commerce.
2. Place more emphasis on the importance of soliciting certified minority businesses and small businesses for subcontracting opportunities at pre-bid conferences and in the bid documents. Examine specifications to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for subcontracts from minority businesses.
3. Provide detailed information to majority contractors concerning the Guidelines for Recruitment and Selection of Minority Business for Participation in Union County Construction Projects and this Outreach Plan (hereinafter referred to collectively as the "MBE Program") and provide information on G.S. 143-129 by holding meetings with the contractors.
4. Assess the effectiveness of the MBE Program, and identify opportunities to enhance it, by evaluating minority business participation and compliance and reviewing the "good faith efforts" provided in bid packages.
5. Identify subcontracting opportunities unique to each construction contract and project and concentrate heavily on targeting certified minority businesses and small businesses that have expressed an interest in Union County projects. Identify these opportunities and contact interested businesses no later than 10 days prior to the bid opening and provide a list of prime contractors plan to participate in the project.
6. Build new business relationships through networking and continue networking with other North Carolina cities and counties to find out how this MBE Program is working and sharing "best practices" and ideas to improve the program.

7. Participate in education opportunities throughout the community as they become available and offer training sessions to share the County's Outreach Plan with interested businesses and organizations.
8. Be visible through participation in trade shows and business organizations of interest to minority businesses, majority contractors and small businesses, and provide information to the general public about the MBE Program, and continue outreach efforts to the business community.
9. Enhance the County's web page by including the MBE Program, listing good faith efforts, and creating links to minority business resources, and creating awareness of specific subcontracting opportunities.
10. Make available to minority-focused agencies, a list of subcontracting opportunities when they are identified, no later than 10 days prior to the bid opening, and a list of prime bidders that subcontractors may wish to contact for subcontracting consideration.
11. Direct minority businesses to the Statewide historically underutilized business certification program in order to ensure those firms wishing to do business with Union County or any other public entity have access to up to date information.
12. Advertise upcoming bid opportunities in minority-focused media and on the county website at www.unioncountync.gov.
13. Work with architects and engineers to make subcontracting opportunities more noticeable and more easily understood by potential contractors and subcontractors.
14. Document telephone calls, emails and correspondence with or on behalf of minority businesses and encourage interested eligible firms to become NCDOT certified.